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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BASINGER, SHERMAN D	

ART UNIT	PAPER NUMBER
3617	

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/731,263	VEAZEY, SIDNEY E.	
	Examiner	Art Unit	
	Sherman D. Basinger	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *6-13,15-18 and 20-26* is/are allowed.

6)☒ Claim(s) *1,2,4,5,14,19 and 27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 March 2005* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The proposed drawing correction filed March 10, 2005 has not been approved as it contains new matter. Further, it does not show what is claimed in claim 14. The proposed figure contains new matter because, while applicant filed a number of depictions of a floating drydock, none of the depictions show a floating drydock as shown in proposed new figure 64. Note of the depictions show a floating drydock with the number of sponsons shown. Figure 64 does not show what is claimed in claim 14 because claim 14 defines the vessel of claim 1 to be adapted to incorporate as the midsection a floating drydock. Figure 64 shows a floating drydock, but does not show a floating drydock incorporated as the midsection of the vessel of figures 43 or 44.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the floating drydock both incorporated and adapted to be incorporated as the midsection of the self propelled vessel for transporting floating objects of claims 14 and 27 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Response to Amendment

3. The amendment filed April 6, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The brief description of figure 64 added to page 13, line 19 and the detailed description of figure 64 added to page 51 following line 51.

Applicant is required to cancel the new matter in the reply to this Office Action.

Specification

4. The abstract of the disclosure is objected to because in line 3 of the abstract filed April 6, 2005 "5,697,473" should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

5. Claims 14 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has failed to describe in detail such that it can be made and used the self-propelled vessel of figures 43-45 or figure 57 which incorporates or is adapted to incorporate as the midship section a floating dock. How does the vessels of the above figures incorporate as their midsection a floating dock? What is the structure of this floating dock?

In amending the disclosure, new matter should not be entered.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by WO 90/08059.

WO 90/08059 discloses in figures 5 and 6 a vessel comprising what can be considered to be separable bow, stern and midship sections, each of said sections being constructed primarily of a plurality of precast concrete boxes having hexagonal or half-hexagonal cross-sections, said boxes being oriented vertically and interconnected by mechanical means (prestressed cables) to form said bow, stern and midship sections into an integrated hull structure of the vessel.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1-2, 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia in view of Winslow, Smith and Gainsley.

Garcia discloses a self-propelled vessel for transporting floating objects, comprising separate

bow 10 and stern 12 sections adapted to be

removably fastened together using mechanical means 19 and 24 to form the

vessel alone and also to be separated and fastened mechanically

to a floating object 14 to form a vessel incorporating said floating

object as a midship section to transport same.

Garcia does not disclose the bow

section 10 comprising at least one anchor, propulsion means, at

least one power supply and control means to operate same and a

crane unit.

Note the anchor of Winslow, the propulsion means 20,23 in the bow section of Smith, the inherently present power supply and control means in the bow section of Smith and the forward most crane in the bow section of Gainsley.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide an anchor similar to that of Winslow to the bow section 10 of Garcia, a propulsion means and power supply and control means similar to those in the bow section of Smith to the bow section of Garcia, and a crane similar to 6 of Gainsley to the bow section of Smith.

Motivation to do so is to make the bow section of Garcia independently operable in a manner similar to how the bow section of Smith is independently operable.

Garcia discloses in his stern section

a propulsion system, a pilot house and controls for said vessel (see column 1, lines 50-57), but does not disclose at least one anchor for the stern section. However, it would

have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide an anchor similar to that of Winslow to the stern section 12 of Garcia. Motivation to do so is to allow the stern section to act independently much as the stern section 2 of Smith.

Garcia is adapted to incorporate as said midship section an assemblage of floating boxes 14 which are mechanically secured together to form said floating object.

The boxes *inherently* comprise at least one material selected from the group consisting of concrete, metal, wood, plastic and polymeric composites. Ships are normally made of metal and sometimes wood or concrete. Due to the period of the patent of Garcia, the vessel and its parts would inherently be made of metal. If not it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to make them of metal including segments 14.

With regard to claim 14, the vessel of Garcia is considered to be adapted to incorporate as the midship section a floating drydock. Adapted to incorporate as the midship section a floating drydock is an intended use of the midsection of Garcia. So long as the midsection of Garcia can perform this intended use, Garcia makes this claim unpatentable. In this instance the midsection it self can be used as a floating drydock if a small watercraft is placed upon its upper deck for repair.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia, Winslow, Smith and Gainsley as applied to claim 3 above, and further in view of Cueni. Garcia does not disclose the boxes 14 as being precast concrete boxes. Cueni discloses making ships, barges and floating boxes of precast concrete. In would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use the teachings of Cueni to make the boxes 14 of Garcia of precast concrete. Motivation to do so can be found in the first column of page 1 of Cueni.

Allowable Subject Matter

11. Claims 6-13, 15-18 and 20-26 are allowed.

Response to Arguments

12. Applicant's arguments with respect to the claims rejected above filed March 10, 2005 have been fully considered but they are not persuasive.

13. With regard to the rejection of claims 14 and 27 under the first paragraph of 35 U.S.C. 112, applicant argues:

The rejection of Claim 14 under 35 U.S.C. 112, first paragraph, is respectfully traversed. It is respectfully submitted that a "floating dry dock" is a commonplace vessel of long history as well known to those in the maritime field as, e.g. a barge or tugboat. Applicant has provided a new drawing (Figure 64) prepared from a photograph of an actual floating dry dock of basic design to meet the requirement of 37 C.F.R.

1.83(a), with brief disclosure thereof added to page 51.

Applicant has also provided the attached Exhibits A and B, an article from Towline relating an operation of towing a floating dry dock from China to Maine, and an entry from the Encyclopedia Americana International Edition (1972) providing a succinct definition: "a floating dry dock is a buoyant structure that can be lowered and raised in the water to receive and a ship." The encyclopedia article describes the basic components and operation of a floating dry dock. Both the article and encyclopedia excerpt provide photos of floating dry docks. The Towline article illustrates the potential difficulty of towing such a vessel, with high freeboard and considerable sail area, over long distances with unpredictable weather, and thus highlights the advantages of the present invention as discussed on page 51, lines 19-23. By incorporating a floating dry dock as the midship section of a vessel of the present invention, it can be transported faster and with better control. It respectfully submitted that those skilled in the art would be enabled to construct or obtain floating dry docks as needed to incorporate in the vessel as claimed, from the extensive history and documentation of floating dry docks in the maritime literature.

14. In rebuttal, it is agreed that floating drydocks are well know. However, because the floating drydocks depicted in the photographs filed by applicant are not as that proposed in figure 64, proposed figure 64 is held to add new matter. As such it has not been approved for entry. Further, that floating drydocks are well know does not enable one having ordinary skill in the art to incorporate any of the floating drydocks shown in the photographs filed by applicant as the midsection of the vessel of figures 43, 44 and 57 of applicant's application. The extensive history and documentation of floating dry docks in the maritime literature does not enable the incorporation of a floating drydock as a midsection of the bow and stern sections of figures 43 and 44 of applicant's invention. Plus, not all floating drydocks are ballasted to lower them into the water to enable a ship or boat to be loaded onto the drydock and then be deballasted to raise the drydock to repair or clean the ship.

15. Applicant further argues:

Also attached as Exhibit C is a copy of pages 358 and 359 (Chapt. 26) of the current edition of Ships and Aircraft of the U.S. Fleet (U.S. Naval Institute 2005), which book series was cited at page 51, lines 17-19 of the application for disclosures of floating dry docks and other naval vessels. This page illustrates and describes two separate U.S. Navy floating dry docks. A photocopy of a floating dry dock was also submitted with the IDS as item A on page 3 of the IDS.

As to the incorporation of the dry dock as the midship

section of the vessel, mechanical attachment means are recited in Claim 1 for incorporating the dry dock like any other "floating object". Particulars of suitable mechanical attachments for securing the midship section in place are discussed in the application at pages 49 to 51. It is therefore respectfully submitted that all rejections of Claim 14 under 35 U.S.C. 112 should be withdrawn and the claim examined on its merits.

16. In rebuttal, that mechanical attachment means are recited in Claim 1 for incorporating the dry dock like any other "floating object" and that particulars of suitable mechanical attachments for securing the midship section in place are discussed in the application at pages 49 to 51 is not sufficient to enable one having ordinary skill in the art to incorporate a dry dock as the mid section of the vessel of figures 43 and 44, especially the drydocks shown in the figures and exhibits filed by applicant. There would be many problems with the orientation of the drydock with respect to the bow and stern section and the exact location of the mechanical attachment means. Unless applicant discloses exactly how a drydock is incorporated to be a mid section of the vessel in question, one having ordinary skill in the art is not enabled to incorporate a dry dock as a mid section of the vessel of figure 43.

17. Applicant next argues with respect to claim 19 that the rejection of Claim 19 under 35 U.S.C. 102(b) over WO 90/08059 is respectfully traversed. The Action alleges that figures 5 and 6 of this reference disclose "a vessel

comprising what can be considered to be separable bow, stern and midship sections, ... of precast concrete boxes having hexagonal or half-hexagonal cross-sections.... "

It is respectfully submitted that WO 90/08059 neither discloses nor suggests a platform or vessel comprising separable bow, midship and stern sections as claimed. Figures 5 and 6 depict a generally rectangular platform (with irregular edges due to the use of only hexagonal modules) without any delineation or suggestion of bow, stern or separation points. No half-hexagonal modules are present as recited in Claim 19. Furthermore, this publication teaches against such an invention in several portions (See, e.g. paragraph bridging pages 3/4 and second full paragraph on page 4) and that the modules are fastened permanently at the vertices to form a stiff, monolithic structure with no defined forward or after portions. There is no suggestion whatever of separating any section or module once joined to form the structure. Although irrelevant to Claim 19, the publication's modules are unsuitable for any function but buoyancy or tanks due to their permanent reinforcements extending between their vertices. It is therefore respectfully requested that this rejection be withdrawn.

18. In rebuttal, it is pointed out that while the modules may not be intended to be separated in WO 014, they can be separated. Each module is a separate unit and each module is joined to the other through the use of prestressed cables. By removing these

cables in any manner, the modules can be separated. Because separation of the modules is not intended does not mean that they can't be separated if needed or desired.

Further, the platform shown in figure 6 has a length greater than its width. This allows one to designate a bow, a mid section and a stern if so desired. The bow section can be the upper most three modules in figure 5 while the stern section can be the lower most three modules. The remainder of the modules can be the mid section. In another instance, the mid section can be considered to be the three middle modules.

19. Applicant next argues that the rejections of Claims 1 to 3, and 14 under U.S.C. 103(a) over Garcia's U.S. patent No. 3,878,806 (Hereinafter "Garcia") in view of Winslow's Patent No. 2,981,219 (Hereinafter "Winslow"), Smith's U.S. Patent No. 2,369,615 (Hereinafter "Smith") and Gainsley are respectfully traversed. Due to the number of references cited, these rejections appear to be based upon improper hindsight and a catalog of marine hardware.

20. In rebuttal, it is pointed out that in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's

disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

21. Applicant argues that the Action states that Garcia discloses "a self-propelled vessel for transporting floating objects, comprising separate bow 10 and stern 12 sections to form a vessel incorporating floating object as a midship section ...," but does not disclose (Applicant's) "bow section comprising at least one anchor, propulsion means" et al. Winslow is cited for an anchor, Smith allegedly for bow propulsion means and "inherently present (bow) power supply means" and Gainsley for a bow crane. The Action concludes that it would have been obvious to add to Garcia's bow section an anchor (Winslow), propulsion means, etc. of Smith and Gainsley's crane.
The motivation is said to be making Garcia's bow section independently operable as in Smith. Similarly, although Garcia does not disclose a stern anchor, allegedly obvious add

one to allow independent operation of the stern section. Garcia further cited for the incorporation "as said midship section an assemblage of floating boxes 14 together." Garcia is also "considered ... adapted to incorporate as the midship section a floating drydock, " allegedly "an intended use of the midsection". The action alleged that "the midsection itself can be used as a floating drydock."

As admitted in the Action, Garcia discloses a vessel with separable bow, stern and midship sections, but neither discloses nor suggests any the features of the bow section claimed by Applicant. The remaining references are applied to suggest the addition of these features, one by one. Gainsley discloses "a cargo vessel in the form of an oceangoing barge comprising a cargo-carrying hull 1 with a propulsion unit 2 detachably secured to the after end thereof." (Column 1, lines 44-47) The vessel has a bow 3 and holds 4, all of which are components of the barge hull. This is a classic barge with a pusher propulsion unit which mates to the after end. The forward crane 6 is not attached to a detachable bow unit, but adjacent one of the holds, thus cannot suggest the crane included in the bow unit claimed by Applicant any more than a crane installed anywhere else, afloat or ashore. Gainsley states in Column 5, lines 36-44 that multiple interlockable hull sections could be used with such a

propulsion unit, but this is hardly an enabling disclosure of this concept. Winslow discloses a 1957-vintage "safety anchors' but there is no suggestion that it would find use a detachable bow unit, and no suggestion or motivation in Garcia to provide either the bow or stern sections with such equipment.

Smith discloses a WW II-era "sectional vessel" with separable bow, stern and cargo sections which can be constructed or stored anywhere, then mated to form a vessel of suitable dimensions and capabilities. Although the Action refers to the "propulsion means 20, 23 in the bow section of Smith" and "inherently present power supply and control means" therein, bow mechanically secured section 1 as shown in Figure 1 is actually the only section of the vessel not having propulsion means, although steering gear may be provided (Column 2, lines 33-36). The stern and each of the cargo sections are provided with propulsion, but although the first full paragraph of column 3 (page 2) states that each of the sections may be propelled ...," due to the lack of disclosure of bow unit propulsion, Applicant respectfully submits that this statement refers to the bow and cargo sections only. Therefore, although Smith's bow section might contain steering gear and the power to operate same, it lacks propulsion and the ability to be "independently operable".

Since Smith neither employs nor suggests any cranes and Gainsley's crane is not actually on a bow section, there is no suggestion or motivation to emplace a crane on the bow of Smith's vessel, especially considering the construction and apparent low freeboard of this vessel. While both Garcia's and Smith's stern sections have propulsion and controls, neither have a stern anchor (See column 2, lines 39-48.), and the disclosure of anchors by Winslow (among thousands of sources) does not provide suggestion or motivation for installing a stern anchor on a separable, self-propelled stern section as claimed by Applicant. Although the Action states that Garcia's boxes "comprise at least one material selected from the group consisting of concrete, metal, wood, plastic and polymeric composites," Applicant's Attorney finds no mention whatever of materials for the boxes themselves; therefore, there is certainly no suggestion or motivation to use floating boxes of the materials presently claimed.

In view of the above discussion, it is respectfully that this rejection should be withdrawn as to Claims I to 3.

22. Rebuttal of the above arguments is made by pointing out that applicant's one of applicant's concepts claimed in claim 1 is disclosed by Smith. The concept is "a self-propelled vessel comprising separate bow and stern sections
adapted to be removably fastened to form the vessel alone and also
mechanically to a floating object
said floating object as a midship section to transport same,
said bow section comprising a propulsion
means and said stern section comprising a
propulsion system."
Smith discloses bow section 1 with its own propulsion means, stern section 2 with its on propulsion means and midsections 3. Note that in Smith in lines 5-11 of column 1 of page 2 discloses that "Each and all of the sections may be propelled on the surface even though separated from the other sections by the engines 20" and "twin screws 23".

The anchor, cranes and other structure defined in claim 1 as being on the bow section and/or stern section are gear or structure well know for use on a ship. Anchors have been used on ships for hundreds of years. If one is to make the bow section and stern section of the vessel of Garcia able to function alone as taught by Smith, one would find it obvious to provide that section with an anchor. The same argument can be true for providing the section with a crane. If one wants to load any cargo on the bow and stern sections of the vessel of Garcia, providing these sections with a crane would be required. Applicant has not claimed the bow and stern section with some unknown and

abnormal structure. Applicant has claimed that the bow and stern section has an anchor; has a crane.

Further, applicant has claimed the boxes as comprising metal, concrete, plastic or wood. Aren't ships and boats normally made of metal, concrete, plastic or wood. Even if Garcia doesn't disclose what the cargo segments 14 comprise, isn't it clear that they would comprise metal. What else would they be made of other than one of metal, wood, concrete or some type of plastic?

23. Applicant next argues that the Action claims with regard to Claim 14 that Garcia's vessel "is considered to be adapted to incorporate as the midship section a floating drydock," since (using) "the midship section is an intended use of the midsection ..." The Action further alleges that since "the midsection of Garcia can perform this intended use, Garcia makes this claim unpatentable," and also that "the midsection itself can be used as a floating drydock if a small watercraft is placed upon its upper deck for repair." It is respectfully submitted that Garcia provides no disclosure or suggestion of midsections other than cargo units, nor mention of floating drydocks. Applicant's Attorney finds no language supporting the unintended use" of Garcia's midsections as a floating drydock; in fact, due to the manner in which the

midsection components are joined by sliding together laterally, it is hard to envision how one could be lowered in the water to take on another floating vessel.

24. In rebuttal of the above argument, it is first pointed out that applicant does not claim that the floating drydock is lowered into the water to take on another floating vessel. All that is required for any of segments 14 of Garcia to be a drydock is for some type of vessel to be placed upon it so that the vessel is out of the water for cleaning or repair. Segments 14 of Garcia can be used in this manner.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963). It has just been pointed out how the segment 14 of Garcia can be used as a floating drydock. Absent an structure defining the drydock midsection over segment 14 of Garcia, claim 14 is not patentable. Claim 14 defines an intended use of the vessel.

25. Applicant continues by arguing that it is hoped that the extensive discussion above, plus Exhibits A, B and C, have made it clear that a floating drydock is a well known and established type of vessel which differs drastically from a barge or cargo section which lacks the capability of floating a vessel aboard for drydocking. Hoisting

a vessel aboard a flat-topped hull (or even onto a pier, wharf or the like) is not equivalent to drydocking. Even heavy lift vessels which can submerge sufficiently to take aboard other vessels on a flat upper deck for transport (e.g., the ship which transported the damaged Navy destroyer USS Cole back to the U.S.) cannot be considered a floating dry dock, as they do not meet the commonly accepted definition of same and lack the equipment to mount another vessel in position for repairs. Applicant's claimed vessel provides specific advantages in transporting floating drydocks, as discussed above under 35 U.S.C. 112.

It is therefore respectfully submitted that the references cited do not suggest the claimed vessel adapted to incorporate a floating drydock as the midship section, nor a vessel actually incorporating same (new Claim 27).

26. In rebuttal, the exhibits and discussion of what a floating drydock is do not change the position that claim 14 defines an intended use of the vessel. If the bow and stern section of Garcia can be adapted to incorporate a dry dock, then claim 14 is met by Garcia as modified by Smith, Winslow and Gainsley. Applicant has not defined the drydock. As pointed out by applicant by his exhibits, drydocks can take a number of forms. One can find this to be true by searching class 114, subclasses 44-45. There is no reason why the segments 14 of Garcia cannot be floating drydocks considering that applicant hasn't defined any structure in claim 14 for the floating drydock.

27. Applicant's arguments concerning Cueni are noted; however, since the examiner inadvertently typed the wrong patent number in the PTO 892 attached to the first office action thereby citing Hull as opposed to Cueni and inadvertently typed Garcia as opposed to Cueni in the last sentence of paragraph 11 of the Detailed Action of the first office action, these arguments will not be addressed. This action will not be made final in view of the above errors by the examiner. The rejection of claim 4 as set forth in the first office action is repeated with a new PTO 892 citing Cueni and with the rejection of claim 4 being corrected such that Cueni instead of Garcia is typed.

Conclusion

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sherman D. Basinger
Primary Examiner
Art Unit 3617

4/19/05

April 19, 2005